

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BERNARD ALLEN STRATZ, Plaintiff, v. HERBERT et al., Defendants.	Case No. 23-12512 Honorable Shalina D. Kumar Magistrate Judge Anthony P. Patti
---	--

**ORDER ADOPTING REPORT AND RECOMMENDATION (ECF NO. 22),
AND DISMISSING COMPLAINT (ECF NO. 1)**

Plaintiff Bernard Allen Stratz ("Stratz"), proceeding *pro se*, initiated this case against multiple defendants while serving a custodial sentence at the G. Robert Cotton Correctional Facility ("JCF") in Jackson, Michigan, alleging violations of his Eighth and Fourteenth Amendment rights. ECF No. 1. This case was referred to the magistrate judge for all pretrial matters pursuant to 28 U.S.C. § 636(b). ECF No. 18.

On December 10, 2024, defendants filed a motion for summary judgment on the basis of exhaustion (ECF No. 22), and the assigned magistrate judge issued an order (ECF NO. 23) requiring Stratz to file a response to defendants' motion by January 31, 2025. Stratz did not file a

response, or take any other action in this case, and on April 22, 2025, the magistrate judge ordered him to show cause why his case should not be dismissed for failure to prosecute. ECF No. 24. Stratz did not file a response to the order to show cause. Accordingly, on May 22, 2025, the magistrate judge issued a Report and Recommendation (“R&R”) recommending that the Court dismiss Stratz complaint without prejudice for failure to prosecute, pursuant to Federal Rule of Civil Procedure 41(b) and E.D. Mich. LR 42.1. ECF No. 25.

Stratz did not file an objection to the R&R, and the time to do so has expired. See Fed. R. Civ. P. 72(b)(2). The failure to file a timely objection to an R&R constitutes a waiver of the right for further judicial review. See *Thomas v. Arn*, 474 U.S. 140, 150 (1985) (“It does not appear that Congress intended to require district court review of a magistrate’s factual or legal conclusion, under a *de novo* or any other standard, when neither party objects to those findings”); *Smith v. Detroit Fed’n of Teachers*, 829 F.2d 1370, 1373-74 (6th Cir. 1987) (failure to file objection to R&R “waived subsequent review of the matter”); *Lardie v. Birkett*, 221 F. Supp. 2d 806, 807 (E.D. Mich. 2002) (“As to the part of the report and recommendation to which no party has objected, the Court need not conduct a review by any

standard.”). However, there is some authority that a district court is required to review the R&R for clear error. See Fed. R. Civ. P. 72 Advisory Committee Note Subdivision (b) (“When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”). Therefore, the Court has reviewed the R&R for clear error and finds none.

Accordingly, the Court **ADOPTS** the R&R (ECF No. 25) and Stratz’s complaint (ECF No. 1) is **DISMISSED WITHOUT PREJUDICE**. To the extent not otherwise disposed of, all scheduled hearings are **CANCELLED**, and all pending motions are **DENIED AS MOOT**.

This case is now closed.

Dated: June 24, 2025

s/Shalina D. Kumar
SHALINA D. KUMAR
United States District Judge